

CITY OF BEDFORD

Bedford, Virginia

Regular Council Meeting

A G E N D A

March 8, 2005

7:30 p.m.

Administrative

Approval of Minutes
Report of City Manager
Council Comments
Report of Committees
Revisions to Agenda

Public Hearings

1-CITY-20-3-3-8	Cable Television Franchise Renewal – Charter Communications
2-P/CD-4-3-3-3-8	Consideration of Amending Section 904 of the Land Development Regulations

Consent Agenda

Old Business

3-PW-9-5-3-8	Vacation or Abandonment of a portion of Independence Boulevard Right-of-Way
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New Business

4-FIN-2-24-3-8	Presentation - Central Virginia Community Services
5-FIN-2-24-3-8	Presentation - Central Virginia Area Agency on Aging
6-FIN-2-24-3-8	Presentation - CASA of Central Virginia
7-FIN-2-24-3-8	Presentation - Lynchburg Center for Independent Living
8-FIN-3-8	Resolution of Official Intent to Reimburse Expenditures with Proceeds of a Borrowing

Adjourn meeting to 6:00 p.m. on Tuesday, March 22nd for Planning Commission interviews.

(City Seal)

NOTICE OF PUBLIC HEARING

On Tuesday, March 8, 2005, the Bedford City Council will conduct a public hearing to receive comments regarding the City proceeding with the renewal process required by the Cable Television Consumer Protection and Competition Act of 1992 and the Telecommunications Act of 1996. Charter Communications, the current cable operator, is seeking renewal of its cable television franchise. The Public Hearing will focus on two major issues:

- Review of the performance of the cable operator;
- Identification of future cable related community needs.

The hearing will be conducted at 7:30 p.m. in Council Chambers, Municipal Building, 215 East Main Street, Bedford, Virginia. Interested persons may appear at such time and place and present their views.

Teresa Hatcher
Clerk of the Council
City of Bedford, Virginia

Publish: February 16 and 23

Please bill City Manager's Office



PUBLIC HEARING NOTICE

Notice is hereby given of a public hearing to be held by the Planning Commission at 5:30 p.m. on Thursday, March 3, 2005 and by the City Council at 7:30 p.m. on Tuesday, March 8, 2005 at the City Municipal Building, Council Hall, 215 East Main Street for the purpose of:

- Amendment of Section 904 (Signs) of the Land Development Regulations

Information regarding this request is on file in the office of Planning & Community Development.

Anyone who is in favor of or opposed to the request will have an opportunity to express his/her views at this hearing.

By the Authority of the Planning Commission
and City Council of the City of Bedford

Publish: Bedford Bulletin
 February 16, 2005
 February 23, 2005

CITY OF BEDFORD

A MAIN STREET CITY

PLANNING AND COMMUNITY
DEVELOPMENT



PHONE (540) 587-6021
FAX (540) 586-7134

P.O. DRAWER 807 215 EAST MAIN STREET
BEDFORD, VIRGINIA 24523

To: Mayor Messier and City Council Members
From: Bart Warner, Director of Planning & Community Development *BW*
Date: March 4, 2005
Re: Recommendation of Planning Commission

On March 3, 2005, the Planning Commission held a regularly scheduled meeting for the purpose of:

- To consider an amendment of Section 904 (Signs) of the Land Development Regulations.

Mr. Warner formally withdrew the request.

**CITY OF BEDFORD, VIRGINIA
CITY COUNCIL
ACTION FORM**

EM: Vacation or abandonment of a portion of Independence Blvd. right-of-way (Retention pond area on the west side of Independence Blvd. south of the Southern States property).

DATE OF COUNCIL MEETING: March 8, 2005

DATE: March 4, 2005

PRESENTATION:

The City Council, at its last meeting on February 22, 2005, held a public hearing to consider abandonment of a portion of the Independence Blvd. right-of-way constituting a retention pond located west of the Independence Blvd. pavement and south of the Southern States property. Proper notices of the public hearing had been published in the Roanoke Times on February 14, and on February 21, and in the Bedford Bulletin on February 16. No action was taken at that meeting due to the fact that certain details of the proposed transaction had to be worked out and due to the desire to have the entire Council hear the matter.

As was explained at the last Council Meeting, the portion of the right-of-way to be vacated or abandoned contains 1.204 acres which contains a retention pond located on the west side of Independence Blvd. just south of the Southern States property. KOKO, Inc., a real estate development corporation controlled by Bob Conner (the realtor involved in the Ruby Tuesday site and several other developments in the City) has contracts with Southern States Bedford Cooperative Inc. (owner of property north and west of the retention pond) and with Community First Bank (owner of property south and west of the retention pond) which, when combined with the 1.204 acre lot, will create a new 2.443 acre parcel fronting on Independence Blvd. The developer plans to create a replacement drainage retention facility at the back of this combined lot and to fill in the existing retention pond which is located adjacent to Independence Blvd. In exchange for the conveyance of the 1.204 acre tract by the City to KOKO, Inc., the developer, at its own expense, agrees to construct the new retention pond and to assume all future maintenance of the drainage facility.

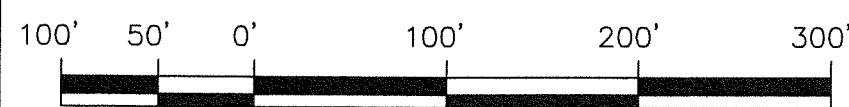
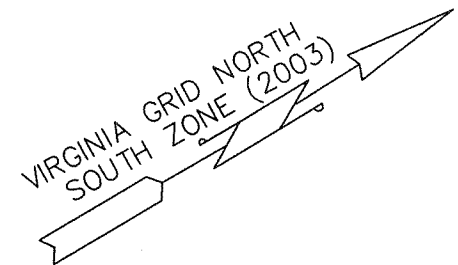
The original plan was for the developer to convey the area of the new retention pond to the City in a deed of exchange. However, City staff has determined that other jurisdictions in Virginia are requiring developers to retain ownership of such drainage facilities, subject to a storm water management facility maintenance agreement that is recorded in the Deed Book making the maintenance responsibility a covenant running with the land and binding upon future owners of the developed lot. The developer has had a new plat prepared by Berkley-Howell & Associates, P.C. showing the combined land. The City Attorney has drafted an agreement between the City and the developer to be executed prior to the City Council meeting that will become effective upon approval by the City Council. The agreement provides that the City will convey the 1.204 acres to KOKO, Inc. by a deed from the City with special warranty of title and reserving rights to use of the present retention pond until a replacement facility is operational. The agreement also calls for delivery of the deed to the developer upon evidence that the developer has acquired by deed fee simple title to the land to be acquired from Community First Bank and from Southern States Bedford Cooperative, Inc., that a storm water management facility maintenance agreement binding the new combined lot will be put to record in a form approved by the City Attorney, with any necessary subordination agreements from any lien holders agreeing to the maintenance agreement, and that a letter of credit from a bank is supplied to the City by the developer to assure construction of the new drainage retention facility.

City staff has been attempting to expedite this matter so that the developer can begin work in the next couple of weeks. The proposed ordinance has been drafted, but there has not been sufficient time to post the ordinance for one week prior to the meeting. In view of the fact that there were no persons opposed to this action at the public hearing on February 22nd, and the matter has been fully advertised, staff recommends that the Council treat this as an emergency matter, which will allow the waiver of posting of the ordinance, and adopt the proposed ordinance.

ACTION REQUESTED:

City Council, by appropriate motion, waive posting of the ordinance and by appropriate motion approve passage of the ordinance vacating or abandoning the 1.204 acre portion of Independence Blvd. and authorizing the Mayor and Clerk to execute a deed conveying the 1.204 as to KOKO, Inc., subject to acquisition of fee simple interest by KOKO, Inc. of the adjoining parcels from Community First Bank and Southern States Bedford Cooperative, Inc., execution of the storm water management facility maintenance agreement between the City and KOKO, Inc. imposing maintenance responsibilities upon KOKO, Inc., and posting of a letter of credit with the City assuring completion of the new retention pond upon the 2.443 acre revised tract of combined acreages own by KOKO, Inc.

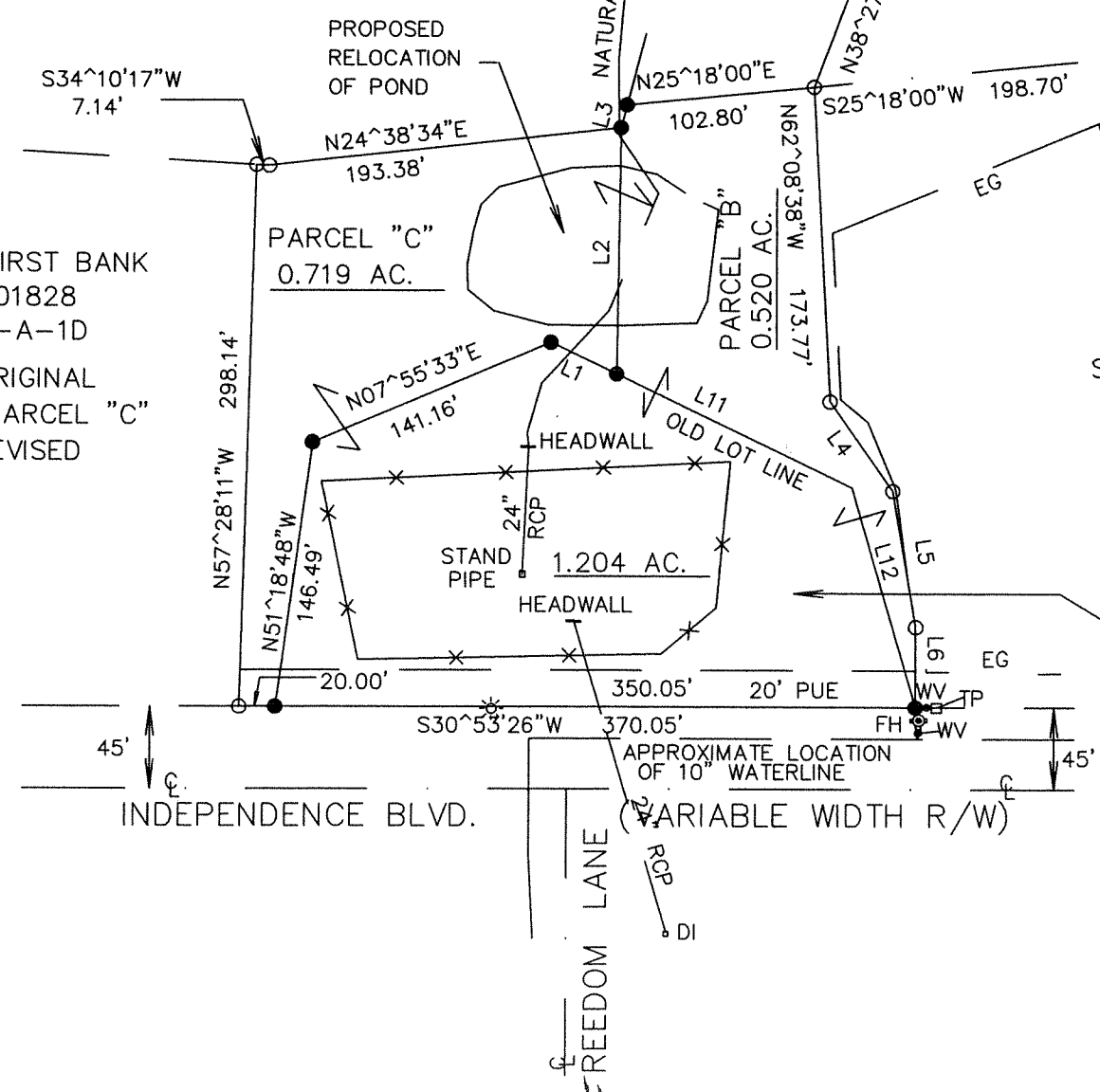
		YES	NO	OTHER	ROUTING	
DATE: _____	FLOOD	()	()	()	CITY ATTY. ()	HR ()
	HUBBARD	()	()	()	CITY TREAS. ()	PKS/REC/CEM ()
APPROVED ()	MESSIER	()	()	()	COMM.DEV. ()	POLICE ()
DENIED ()	PADGETT	()	()	()	COMM.REV. ()	PUBLIC WKS. ()
DEFERRED TO:	STANLEY	()	()	()	ELECTRIC ()	SEWER ()
_____	THARP	()	()	()	ENGINEERING ()	WATER ()
	WANDREI	()	()	()	FINANCE ()	OTHER: _____
					FIRE DEPT. ()	



BAR SCALE-1"= 100'

CITY OF BEDFORD
D.B. 309 PG. 219
T.M.#236-A-8

COMMUNITY FIRST BANK
INST.#040001828
T.M. #237-A-1D
1.91 AC. ORIGINAL
-0.710 AC. PARCEL "C"
*1.19 AC. REVISED



SOUTHERN STATES BEDFORD COOPERATIVE, INC.
D.B. 945 PG. 382
T.M. #237-A-2A
7.159 AC. ORIGINAL T.M. #237-A-2A
-0.520 AC. PARCEL "B"
+3.251 AC. PARCEL "A"
9.890 AC. REVISED T.M. #237-A-2A

KOKO, INC.
INST. #
1.204 AC. ORIGINAL TRACT
+0.520 AC. PARCEL "B"
+0.719 AC. PARCEL "C"
2.443 AC. REVISED TRACT

- LEGEND
- IRON PIN SET
 - IRON PIN FOUND
 - R/W RIGHT-OF-WAY
 - WV WATER VALVE
 - TP TELEPHONE PEDESTAL
 - FH FIRE HYDRANT
 - * LIGHT POLE
 - × FENCE
 - RCP REINFORCED CONCRETE PIPE
 - CL CENTER LINE
 - DI DROP INLET
 - EG EDGE OF GRAVEL
 - DE DRAINAGE EASEMENT
 - PUE PUBLIC UTILITY EASEMENT

TURNER & BF
INST. #
T.M. #
13.299 AC. C
+6.031 AC. F
19.330 AC. R

**AN ORDINANCE VACATING OR ABANDONING
A PORTION OF THE INDEPENDENCE BLVD.
RIGHT-OF-WAY (RETENTION POND AREA ON WEST
SIDE OF INDEPENDENCE BLVD. SOUTH OF SOUTHERN
STATES PROPERTY)**

WHEREAS, KOKO, Inc., a Virginia corporation involved in the development of commercial real estate, is contract purchaser of Parcel C containing 0.719 acres owned by Community First Bank and Parcel B containing 0.520 acres owned by Southern States Bedford Cooperative, Inc., as such parcels are shown on a plat of survey entitled "Re-subdivision of Four Tracts of Land on Independence Blvd.," prepared by Berkley-Howell & Associates, P.C., dated January 19, 2005; and

WHEREAS, a storm drainage retention facility is located adjacent to the western edge of Independence Blvd. on a 1.204 acre tract which is owned by the City and is a part of the Independence Blvd. and such drainage retention facility receives drainage from that street and properties to the east of Independence Blvd.; and

WHEREAS, Parcel C and Parcel B abut the 1.204 acre tract and surround it on the south, west and north; and

WHEREAS, KOKO, Inc. has requested the City to vacate and abandon the 1.204 acre portion of the right-of-way and to convey the abandoned real estate to KOKO, Inc., so that it will own a 2.443 acre tract consisting of Parcel C, Parcel B and the 1.204 acres which can be used for commercial development on Independence Blvd.; and

WHEREAS, KOKO, Inc. has agreed in consideration of said conveyance at its own expense to construct a new storm water drainage retention pond on the rear of the combined parcel and to assume all maintenance obligations in respect to it; and

WHEREAS, a public hearing to consider such vacation was held by the City Council at its regular meeting held on February 22, 2005 after a notice of public hearing was advertised pursuant to Section 15.2-2006 in the Roanoke Times on February 14 and on February 20, and in the Bedford Bulletin on February 16, 2005; and

WHEREAS, at the public hearing no one appeared in opposition, and the City Council finds that it is not necessary for the appointment of viewers and that it is in the public interest to abandon and vacate the said portion of the right-of-way and to convey the 1.204 acres to KOKO, Inc.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL of the City of Bedford, Virginia, as follows:

Section 1. Pursuant to the provisions of Virginia Code Section 15.2-2006, the City Council does hereby abandon and vacate that portion of the Independence Blvd. right-of-way containing 1.204

acres and more fully shown on a plat of survey entitled "Re-subdivision of Four Tracts of Land on Independence Blvd.," prepared by Berkley-Howell & Associates, P.C., dated January 19, 2005.

Section 2. The City Council, pursuant to Section 15.2-2008 approves the conveyance of the 1.204 acre tract, being the portion of right-of-way abandoned, to KOKO, Inc., and authorizes the Mayor and City Clerk to execute and deliver a deed conveying such property with special warranty of title in form approved by the City Attorney, in consideration of the agreement by KOKO, Inc., to construct a new storm water retention pond at the rear of the combined parcel and to assume the obligation to maintain said new drainage facility.

Section 3. The deed shall be held in escrow by the City Attorney and be delivered to KOKO Inc. upon (a) conveyance of Parcel B and Parcel C to KOKO, Inc., (b) execution of a storm water facility maintenance agreement by KOKO, Inc., as owner of the combined tract agreeing to the construction of the replacement drainage facility and assuming liability for its maintenance as a covenant running with the land in favor of the City and such lands as are drained into such facility and (c) delivery of a letter of credit to the City by a banking institution in the amount of \$90,000 assuring construction of the replacement drainage facility.

Section 4. Pursuant to the provisions of Section 15.2-2006, KOKO Inc., shall reimburse the City Council the cost of publishing the aforesaid notices and the cost of recording a certified copy of this Ordinance in the Clerk's Office of the Circuit Court of Bedford County.

Section 5. This Ordinance shall be effective immediately, and shall be recorded in the Clerk's Office of the Circuit Court of Bedford County together with the deeds conveying the 0.719 acre tract and the 0.520 acre tract and the storm water facility maintenance agreement described in Section 3 above, and such Ordinance shall be come void if such documents are not executed and recorded within six (6) months of the date hereof.

I hereby certify that the foregoing is a true and exact copy of an Ordinance adopted at a regular meeting of the Council of the City of Bedford, Virginia, held on March 8, 2005, at which said meeting a quorum was present and voted.

Given under my hand this ____ day of March, 2005

Seal
City of Bedford

Teresa W. Hatcher
Clerk of the Council

**CITY OF BEDFORD, VIRGINIA
CITY COUNCIL
ACTION FORM**

EM: Resolution of Official Intent to Reimburse Expenditures with Proceeds of a Borrowing

DATE OF COUNCIL MEETING: March 8, 2005

DATE: March 2, 2005

PRESENTATION:

The City intends to borrow funds to finance the purchase of an Enterprise Resource Planning ("ERP") system for the City. This purchase and related borrowing was approved by City Council as part of the FY2004-05 capital budget. The purchase price of the system is \$340,000.

In connection with that borrowing, Council needs to adopt a "reimbursement resolution" providing for the reimbursement to the City from the bond proceeds of certain expenses that will have been incurred in the period 60-days prior to the date of the resolution. (This is required under certain technical Internal Revenue Code provisions.)

Christopher Kulp of the Law Firm of Hutton & Williams has acted as bond counsel for the City and has drafted the necessary reimbursement resolution.

ACTION REQUESTED:

City Council is requested to adopt the attached reimbursement resolution.

DATE: _____	FLOOD	YES	NO	OTHER	CITY ATTY.	ROUTING	
	HUBBARD	()	()	()	()	HR	()
APPROVED ()	MESSIER	()	()	()	CITY TREAS.	PKS/REC/CEM	()
DENIED ()	PADGETT	()	()	()	COMM.DEV.	POLICE	()
DEFERRED TO:	STANLEY	()	()	()	COMM.REV.	PUBLIC WKS.	()
_____	THARP	()	()	()	ELECTRIC	SEWER	()
	WANDREI	()	()	()	ENGINEERING	WATER	()
					FINANCE	OTHER: _____	
					FIRE DEPT.	()	

**RESOLUTION OF OFFICIAL INTENT TO REIMBURSE
EXPENDITURES WITH PROCEEDS OF A BORROWING**

WHEREAS, the City of Bedford, Virginia (the "Borrower"), intends to finance the purchase of an Enterprise Resource Planning System to serve the City's various offices (the "Project"); and

WHEREAS, plans for the Project have advanced and the Borrower expects to advance its own funds to pay expenditures related to the Project (the "Expenditures") prior to incurring indebtedness and to receive reimbursement for such Expenditures from proceeds of tax-exempt bonds or taxable debt, or both;

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BEDFORD, VIRGINIA:

1. The Borrower intends to utilize the proceeds of tax-exempt bonds (the "Bonds") or to incur other debt, in an amount not currently expected to exceed \$400,000 to pay the costs of the Project.
2. The Borrower intends that the proceeds of the Bonds be used to reimburse the Borrower for Expenditures with respect to the Project made on or after January 8, 2005, which date is no more than 60 days prior to the date hereof. The Borrower reasonably expects on the date hereof that it will reimburse the Expenditures with the proceeds of the Bonds or other debt.
3. Each Expenditure was or will be, unless otherwise approved by bond counsel, either (a) of a type properly chargeable to a capital account under general federal income tax principles (determined in each case as of the date of the Expenditure), (b) a cost of issuance with respect to the Bonds, (c) a nonrecurring item that is not customarily payable from current revenues, or (d) a grant to a party that is not related to or an agent of the Borrower so long as such grant does not impose any obligation or condition (directly or indirectly) to repay any amount to or for the benefit of the Borrower.
4. The Borrower intends to make a reimbursement allocation, which is a written allocation by the Borrower that evidences the Borrower's use of proceeds of the Bonds to reimburse an Expenditure, no later than 18 months after the later of the date on which the Expenditure is paid or the Project is placed in service or abandoned, but in no event more than three years after the date on which the Expenditure is paid. The Borrower recognizes that exceptions are available for certain "preliminary expenditures," costs of issuance, certain de minimis amounts, expenditures by "small issuers" (based on the year of issuance and not the year of expenditure) and expenditures for construction of at least five years.
5. The Borrower intends that the adoption of this resolution confirms the "official intent" within the meaning of Treasury Regulations Section 1.150-2 promulgated under the Internal Revenue Code of 1986, as amended.
6. This resolution shall take effect immediately upon its passage.